



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867



Dependable Environmental Services, Inc.
P.O. Box 117
Windham, NH 03087

**NOTICE OF PROPOSED
LICENSE ACTION
No. NPLA 01-03**

April 27, 2001

I. Introduction

This Notice of Proposed License Action is issued by the Department of Environmental Services, Waste Management Division (DES) to Dependable Environmental Services, Inc., pursuant to RSA 541-A:30 and RSA 147-A:6, V(c). DES is proposing to revoke the New Hampshire Hazardous Waste Transporter Registration, TNH-0063, held by Dependable Environmental Services, Inc., based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. Parties

1. TheThe Department of EnvironmentalThe Department of Environmental Services, Waste Management Division agency of the State of New Hampshire, having its principal officeagency of the State of New Hampshire, having its principal office
2. DependableDependable Dependable EnvDependable Environmental Services, Inc. (Dependable) is a New Hampshire corporation having a mailing address of P.O. Box 117, Windham, NH.

III. Summary of Facts and Law Supporting Proposed Action

1. RSA 147-A authorizes DES to regulate the management, transportation, and disposal of hazardous waste in New Hampshire. Pursuant to the authority conferred by RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100 1000, the Hazardous Waste Rules, to implement this regulatory program.
2. RSA 147-A:6 authorizes DES to administer the Hazardous Waste Transporter Program. Pursuant to RSA 147-A:3, the Commissioner has adopted Env-Wm 600 relative to this specific program.
3. RSA 147-A:6, V(c) authorizes DES to modify, suspend, or revoke a hazardous waste transporter registration if the transporter violates any provision of RSA 147-A, any rules adopted by the Commissioner pursuant to RSA 147-A, or any rules adopted by the Commissioner of the Department of Safety pursuant to RSA 21-P:17.

4. RSA 147-A:6, V(d)(1) authorizes DES to deny a registration application or a registration renewal application or suspend or revoke a registration if, *inter alia*, the applicant/registrant fails to demonstrate sufficient reliability, expertise, integrity, and competence to transport hazardous waste.
5. DES issued New Hampshire Hazardous Waste Transporter Registration number TNH-0063 dated May 18, 2000 (the Registration) to Dependable, to allow Dependable to transport hazardous waste in New Hampshire.
6. Gregory Bruett is the owner and president of Dependable.
7. At the times relevant to this action, Dependable conducted operations at property located at 48 Lowell Road, Windham, NH as identified on Windham, NH Tax Map 20E, Lot 252 and in a deed recorded in the Rockingham County Registry of Deeds in Book 3239, Page 2922 (the Site).
8. From 1992 through 1999, DES has issued four Letters of Deficiency and two Administrative Orders to Dependable for numerous violations of RSA 147-A and the Hazardous Waste Rules, including violations specifically relating to hazardous waste transportation, unpermitted transfer facility activities, and used oil violations.
9. On April 19, 2000, DES personnel conducted an inspection of the Site and documented numerous violations of RSA 147-A and the Hazardous Waste Rules, including violations specifically relating to hazardous waste transportation. As a result, DES issued Administrative Order No. WMD 00-21 dated August 10, 2000 (the Order) to Dependable. The Order is attached hereto as Attachment A.
10. The Order identified violations of RSA 147-A:4 relating to training, contingency plans, labeling, and handling of hazardous waste and used oil. No appeal of the Order was filed with the Waste Management Council.

IV. Determinations

1. The violations identified in the Order show that Dependable does not have sufficient reliability, expertise, integrity, and competence to transport hazardous waste.

V. Proposed Action


1. DES proposes to revoke Hazardous Waste Transporter Registration TNH-0063 for the duration of the current registration, and to refuse to renew any future application for registration received from or on behalf of Dependable or Mr. Bruett, or from or on behalf of any other business entity in which Mr. Bruett holds a position of responsibility over the management, including transportation, of hazardous waste.

VI. Hearing, Response, Proposed Settlement

Dependable has the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:30, at which Dependable and any witnesses Dependable may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross examination. If Dependable wishes to have a hearing, one will be scheduled promptly.

Dependable may waive its right to a hearing. If Dependable waives the hearing, DES will revoke the Registration and will refuse to renew any future application for registration received from or on behalf of Dependable or Mr. Bruett, or from or on behalf of any other business entity in which Mr. Bruett holds a position of responsibility over the management, including transportation, of hazardous waste. Dependable should notify DES of its decision by filling out and returning the enclosed colored form by May 15, 2001.

If you have any questions or would like to schedule a meeting regarding this matter, please contact Tammy Calligandes, Environmentalist, at 271-3899


COPY
Philip J. O'Brien, Ph.D., Director
Waste Management Division

Certified Mail # 7099 3400 0002 9771 3546

Enclosures: AO No. WMD 00-021

cc: Gretchen Rule, DES Enforcement Coordinator

RETURN THIS PAGE BY MAY 15, 2001

APPEARANCE

____ Dependable desires a hearing in accordance with Env-C 204 regarding the Registration.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature

Date: _____

WAIVER OF HEARING

____ On behalf of Dependable, I certify that we understand our right to a hearing regarding the revocation of the Registration and that Dependable hereby waives those rights.

Name: _____
(Please type or print legibly)

Title: _____
(Please type or print legibly)

Signature

Date: _____

Please return to: Attn: James Ballentine, Paralegal
 DES Legal Unit
 P.O. Box 95
 6 Hazen Drive
 Concord, NH 03302-0095